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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

IN RE NATIONAL SECURITY AGENCY TELECOMMUNICATIONS RECORDS LITIGATION This Document Solely Relates To: *Al-Haramain Islamic Foundation* *et al.* v. *Obama*, *et al.* (07-cv-109-VRW)	No. M:06-cv-01791-VRW **DECLARATION OF DENNIS C. BLAIR, DIRECTOR OF NATIONAL INTELLIGENCE** Date: September 23, 2009 Time: 10:00 a.m. Courtroom: 6, 17th Floor Chief Judge Vaughn R. Walker

I, DENNIS C. BLAIR, do hereby state and declare as follows:

1. I am the Director of National Intelligence (DNI) of the United States. I have held this position since January 29, 2009. In 2002, I retired as an Admiral from the United States Navy after a 34-year career, which included service as Commander in Chief, U.S. Pacific Command. During my Navy career, I also served as Director of the Joint Staff and as Associate

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Director of Central Intelligence for Military Support, as well as in policy positions on the National Security Council staff. From 2003 to 2006, I was President and CEO of the Institute for Defense Analyses, an organization that analyzes and makes recommendations on national security policy matters. The statements made herein are based on my personal knowledge, as well as on information provided to me in my official capacity as DNI, and on my personal evaluation of that information.

2. The position of Director of National Intelligence was created by Congress in the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, §§ 1011(a) and 1097, 118 Stat. 3638, 3643-63, 3698-99 (2004) (amending sections 102 through 104 of Title I of the National Security Act of 1947). Subject to the authority, direction, and control of the President, the DNI serves as the head of the U.S. Intelligence Community[1] and as the principal advisor to the President, the National Security Council, and the Homeland Security Council, for intelligence matters related to national security. *See* 50 U.S.C. § 403(b)(1), (2). The responsibilities and authorities of the DNI are set forth in the National Security Act, as amended. *See* 50 U.S.C. § 403-1. These responsibilities include that "[t]he Director of National Intelligence shall protect intelligence sources and methods from unauthorized disclosure." 50 U.S.C. § 403-1(i)(1). By virtue of my position as the DNI, and unless otherwise directed by the President, I have access to all intelligence related to the national security that is collected by any department, agency, or other entity of the United States. Pursuant to Executive Order No. 12958, 3 C.F.R. § 333 (1995), as amended by Executive Order 13292 (March 25, 2003), reprinted as amended in 50 U.S.C.A. § 435 (Supp. 2004), the President has authorized me to exercise original TOP SECRET classification authority.

3. The purpose of this declaration is to address further, and in unclassified terms, an inaccuracy contained in a prior submission by the Government. The Government first advised

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[1] The "United States Intelligence Community" includes the offices, agencies, and components set forth at 50 U.S.C. § 401a(4).

the Court of this issue in February 2009 in a public report and declarations setting forth the results of a "declassification review" of the information over which privilege has been asserted in this case. Details concerning the matter remain classified and cannot be set forth on the public record. In February 2009, the Government submitted classified declarations that addressed this issue, along with the overall results of the declassification review.

4. I have reviewed the public and *In Camera, Ex Parte* Declarations of then-DNI Negroponte lodged in June 2006; the public and *In Camera, Ex Parte* Declarations of Lieutenant General Keith B. Alexander, Director of the National Security Agency, also lodged in June 2006; the public Declaration of John F. Hackett of the Office of Director of National Intelligence submitted in May 2006; and a copy of the classified "Sealed Document" that I understand was inadvertently disclosed to the plaintiffs and then lodged with the Court at the outset of this case. I have also reviewed the public and classified declarations submitted in February 2009 in connection with the declassification review ordered by this Court. This includes the public and classified declarations of John F. Hackett of the Office of Director of National Intelligence submitted on February 27, 2009; the public and classified declarations of Joseph J. Brand of the National Security Agency submitted on February 27, 2009; the classified Declaration of Anthony J. Coppolino, Department of Justice, Civil Division; and the classified Declaration of Andrea M. Gacki, Department of the Treasury, Office of Foreign Assets Control.

5. My review specifically included the information submitted to the Court that addresses the inaccuracy contained in a prior submission in this case by the Government. As to that particular issue, I concur with the conclusion stated by the Government in its declassification review report that the inaccuracy at issue does not alter the classification determinations made in that report by the ODNI and the NSA regarding information subject to the state secrets privilege and the statutory privilege assertions in this case. Because discussion of the details concerning this matter would require the disclosure of properly classified information, I can make available to the Court for *in camera, ex parte* review additional

classified details that address this issue further.

I declare under penalty of perjury that the foregoing is true and correct.

DATE: 14 Sept 2009

Dennis Blair

DENNIS C. BLAIR
Director of National Intelligence